

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to farmstands

The Department of Agriculture and Land Stewardship hereby amends Chapter 50, “Women, Infants, and Children/Farmers’ Market Nutrition Program and Senior Farmers’ Market Nutrition Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 159.5(10) and 175B.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 159 and 175B.

Purpose and Summary

The amendments will grandfather a farmstand which does not meet the existing criteria for a permanent structure into the program as long as the farmstand has been in business for at least five continuous years, has operated during the majority of the market season, and has a letter of support from a municipality, county or other governmental agency.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 17, 2018, as **ARC 3567C**. No public comments were received. One change from the Notice has been made. The word “and” was added to the first sentence of paragraph 50.8(8)“a” for clarification.

Adoption of Rule Making

This rule making was adopted by the Department on February 21, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 21—Chapter 8.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 18, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 50.8(8) as follows:

50.8(8) A farmstand authorized to participate in the FMNP/SFMNP shall be operated from a permanent building that is primarily used for the sale of eligible foods, is not moveable and remains in the same location year-round. The building shall have at least a roof, sidewalls, and solid floor to protect produce and people. Wood post frame, stud frame, rigid-frame metal, and concrete block construction are suitable farmstand construction. The building must be maintained in a manner consistent with standards generally accepted for this type of business. The structural requirements for a permanent building do not apply under either of the following circumstances:

a. The farmstand not meeting the structural requirements is authorized to participate in the FMNP/SFMNP and is primarily used for the sale of eligible food and has operated from a structure at the same location for a minimum of five consecutive years and has also been operating the majority of the market season from June 1 through October 31 for a minimum of 11 consecutive weeks annually. The vendor must submit with the vendor's application a letter of support acknowledging five years or more of operation at that location from a municipality, county or governmental agency.

b. Up to two moveable farmstands that do not meet the requirements of permanent farmstands may be authorized in cities and villages that are not located within ten miles of an authorized farmers' market. If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market. An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.

ITEM 2. Adopt the following new subrule 50.8(9):

50.8(9) If three or more applications for moveable farmstands within the same city or village are received by the department, the applicants shall be required to meet the authorization requirements of a farmers' market.

ITEM 3. Adopt the following new subrule 50.8(10):

50.8(10) An authorized farmstand must be staffed during all hours of operation. Failure to comply will result in a warning citation from the department. Repeated noncompliance could result in the revocation of the farmstand authorization.

[Filed 2/21/18, effective 4/18/18]

[Published 3/14/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/14/18.